

**From:** Peter Oakford, Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services

Rebecca Spore, Director of Infrastructure

**To:** Policy and Resources Cabinet Committee – 13 July 2022

**Subject:** Agreement for a lease and subsequent formal lease for new primary and secondary school at Alkerden, Eastern Quarry, Ebbsfleet.

**Key Decision:** Non-Key Decision

**Classification:** UNRESTRICTED

**Past Pathway of Paper:** N/A

**Future Pathway of Paper:** Cabinet Member Decision

**Electoral Division:** Dartford Rural – Jeremy Kite, MBE

**Summary:**

This report sets out the proposal to enter into an agreement for a lease and a new lease for 999-years with Henley Camland, for occupation and use of a new primary and secondary school, and subsequently granting a 125-year lease to the Academy Trust.

**Recommendation(s):**

The Policy and Resources Cabinet Committee is asked to consider and endorse or make recommendations to the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services on the proposed decision to:

1. authorise the taking of an agreement for a lease for a term in excess of 20 years, in order that a new primary and secondary school can be built for use and occupation. The lease term to formally commence upon completion of the new schools in 2024;
2. agree that upon completion and satisfactory handover of the new primary and secondary school, Kent County Council shall take a formal lease of the new schools for a term of 999-years, commencing in 2024;
3. agree that upon completion and satisfactory handover of the new primary and secondary school, and taking of a formal lease, the Director of Infrastructure is authorised to enter into a 125-year lease to the Academy Trust;
4. note that the main heads of terms for the leases are already agreed and recorded within a section 106 agreement, which Kent County Council is already a party to; and
5. authorise the Director of Infrastructure, in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services, to take necessary actions, included but not limited to entering into relevant contracts or other legal agreements, as required to implement this.

## **1. Introduction**

- 1.1 Kent County Council entered into a section 106 agreement with the original developers of Eastern Quarry, Land Securities, in 2007, for the development of new schools, which would be required to serve anticipated pupil numbers generated from the development of Eastern Quarry. Three primary schools and a secondary school were considered to be necessary to serve the anticipated pupil numbers.
- 1.2 The first primary school provided within the new development was Cherry Orchard Primary School. The school opened as an Academy at the time of its transfer to the County Council and is currently operated by Leigh Academy Trust.
- 1.3 It was the intention of the 2007 Agreement that the second school to be provided would be an All-Through School, providing primary and secondary education provisions from the same location at Alkerden. This proposal was and is still supported by the Department for Education.
- 1.4 It was also the intention of the 2007 Agreement that the County Council would be responsible for provision of two schools using funding obtained by the developer of Eastern Quarry. The funding was to be sourced by developer contributions having regard to projected pupil numbers generated from the development of Eastern Quarry, which would need to be used by the County Council within defined timescales, to ensure the new schools were provided within a timely manner within the overall development.
- 1.5 Land Securities' original desire was to see the new schools developed as a "Lifelong Learning Centre", which would necessitate other community uses being developed at the school site, which are not directly related to education. These uses included health facilities and a dual-use sports hall. Henley Camland confirmed that they would provide these within the new school development on the proviso that the new schools would be transferred to the County Council within a 999-year lease, commencing on handover of the new schools, rather than a direct transfer of the site. This would ensure that the desired community facilities would be maintained and controlled by Henley Camland via appropriate covenants within the 999-year lease, rather than similar covenants within the transfer.
- 1.6 In order that the developer can proceed with the issuing of a building contract for the development of the new schools, it first requires Kent County Council to commit to the taking of a 999-year lease by first entering into an agreement for a lease, with a view to granting the formal 999-year lease upon completion/handover of the new schools.

## **2. Proposed Terms**

- 2.1 Annex 2 to Schedule 7 of the Deed of Variation, dated 28 March 2018, defines the core terms for the agreement for a lease, which the developer requires Kent County Council to complete, in order that a building contract for the proposed school development can be issued. A copy of Annex 2 is included within Appendix A.
- 2.2 Annex 4 to Schedule 7 of the Deed of Variation, dated 28 March 2018, defines the core terms for the 999-year lease, which the developer requires Kent County Council to complete upon handover of the new schools. A copy of Annex 4 is included within Appendix A.

- 2.3 Kent County Council is already bound by the terms of the 2018 deed to take the proposed agreement for a lease and subsequent 999-year lease.

### **3. Financial Implications**

- 3.1 Each party to bear its own costs upon completion of the agreement for a lease and 999-year lease.
- 3.2 A rent of one peppercorn per annum, if demanded, is proposed within the 999-year lease.

### **4. Legal implications**

- 4.1 Kent County Council is already bound by the terms of the 2018 deed to take the proposed agreement for a lease and subsequent 999-year lease.

### **5. Equalities implications**

- 5.1. It is not felt that this decision represents any impact on any of the nine areas specified by Kent County Council under its Equality Impact Assessments (EqIA). No detailed EqIA has been completed based on clear lack of impact.

### **6. Consultations**

- 6.1 The local Member has been notified.

### **7. Governance**

- 7.1 A Cabinet Member decision is required due to the length of the leases exceeding 20 years.
- 7.2 The proposed decision will delegate authority to the Director of Infrastructure to take necessary actions, included by not limited to entering into relevant contracts or other legal agreements, as required to implement this decision.

### **8. Conclusion**

- 8.1 In order that the developer can proceed with the issuing of a building contract for the development of the new schools, it requires Kent County Council to commit to the taking of a 999-year Lease, by first entering into an agreement for a lease, with a view to granting the formal 999-year lease upon completion/handover of the new schools.

## 9. Recommendation(s)

### Recommendation(s):

The Policy and Resources Cabinet Committee is asked to consider and endorse or make recommendations to the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services on the proposed decision to:

1. authorise the taking of an agreement for a lease for a term in excess of 20 years, in order that a new primary and secondary school can be built for use and occupation with the lease term to formally commence upon completion of the new schools in 2024;
2. agree that upon completion and satisfactory handover of the new primary and secondary school, Kent County Council shall take a formal lease of the new schools for a term of 999-years, commencing in 2024;
3. agree that upon completion and satisfactory handover of the new primary and secondary school, and taking of a formal lease, authorise the Director of Infrastructure to enter into a 125-year lease to the Academy Trust;
4. note that the main heads of terms for the leases are already agreed and recorded within a section 106 agreement which Kent County Council is already a party to; and
5. authorise the Director of Infrastructure, in consultation with the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services, to take necessary actions, included but not limited to entering into relevant contracts or other legal agreements, as required to implement this.

## 10. Background Documents

- Appendix A – Annex 2 and 4 to Schedule 7 of the Deed of Variation, 28 March 2018
- Appendix B – Proposed Record of Decision

## 11. Contact details

<b>Report Authors:</b>	<b>Relevant Director:</b>
Andrew White Principal Estates Manager Telephone: 03000 41 68 25 E-mail: <a href="mailto:Andrew.White@kent.gov.uk">Andrew.White@kent.gov.uk</a>	Rebecca Spore Director of Infrastructure Telephone: 03000 41 67 16 E-mail: <a href="mailto:Rebecca.spore@kent.gov.uk">Rebecca.spore@kent.gov.uk</a>
James Sanderson Head of Property Operations Telephone: 03000 41 76 06 E-mail: <a href="mailto:James.sanderson2@kent.gov.uk">James.sanderson2@kent.gov.uk</a>	